

Department of Homeland Security

§ 280.53

§ 280.2 will not be made if such aircraft is damaged to an extent that its value is less than the amount of the fine which may be imposed. If seizure of an aircraft for violation of section 239 of the Act is to be made, Form G-297 (Order to Seize Aircraft) and Form G-298 (Public Notice of Seizure) shall be prepared in septuple and the originals furnished to the immigration officer who will effect the seizure. The original of Form G-297, properly endorsed as to date and place of seizure, shall be returned for retention in the relating file after seizure is effected. The original of Form G-298 shall be placed on the seized aircraft and a copy retained in the file. Copies of both forms shall be served upon the owner of the aircraft and the pilot if other than the owner. Copies shall also be furnished the district director of customs and the United States Attorney for the district in which the seizure was made. In addition, immediately upon the seizure of an aircraft, or prior thereto, if circumstances permit, a full report of the facts in the case shall be submitted by the district director to the United States Attorney for the district in which the seizure was made, together with copies of Form G-296 (Report of Violation) and Form I-79 (Notice of Intention to Fine). The report shall include the cost incurred in seizing and guarding the aircraft and an estimate of the further additional cost likely to be incurred.

[29 FR 14433, Oct. 21, 1964, as amended at 32 FR 17651, Dec. 12, 1967]

§ 280.51 Application for mitigation or remission.

(a) *When application may be filed.* An application for mitigation or remission of a fine may be filed as provided under § 280.12 of this part; or, within 30 days after the date of receipt of the district director's or the Associate Commissioner for Examinations, or the Director for the National Fines Office's decision to impose a fine whether or not the applicant responded to the Notice of Intention to Fine.

(b) *Form and contents of application.* An application for mitigation or remission shall be filed in duplicate under oath and shall include information, supported by documentary evidence, as

to the basis of the claim to mitigation or remission, and as to the action, if any, which may have been taken by the applicant, or as to the circumstances present in the case which, in the opinion of the applicant, justified the granting of his application.

(c) *Disposition of application.* The application, if filed with the answer, shall be disposed of as provided in § 280.13. In any other case the application shall be considered and decided by the district director or the Associate Commissioner for Examinations, or the Director for the National Fines Office from whose decision an appeal may be taken to the Board as provided in 8 CFR part 1003.

[22 FR 9808, Dec. 6, 1957, as amended at 23 FR 9124, Nov. 26, 1958; 46 FR 28624, May 28, 1981; 54 FR 18649, May 2, 1989; 76 FR 74629, Dec. 1, 2011]

§ 280.52 Payment of fines.

(a) All fines assessed pursuant to sections 231(d); 237(b); 239; 251(d); 254(a); 255; 256; 271(a); 272, 273 and 274(c) of the Act shall be made payable to and collected by the Service.

(b) All fines collected pursuant to sections 271(a) and 273 of the Act shall be deposited in the Immigration User Fee Account established in accordance with the provisions of section 286 of the Act.

(c) From the amounts collected under paragraphs (a) and (b) of this section, the increase in penalties collected resulting from the amendments made by sections 203(b), 543(a), and 544 of the Immigration Act of 1990, shall be credited to the appropriation for activities authorized under section 280(b) of the Act.

[56 FR 26020, June 6, 1991]

§ 280.53 Civil monetary penalties inflation adjustment.

(a) *In general.* In accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Public Law 104-34, 110 Stat. 1321, the civil monetary penalties provided by law within the jurisdiction of the Department of Homeland Security (DHS) and listed in

paragraph (c) of this section are adjusted as set forth in this section, effective for violations occurring on or after January 3, 2012.

(b) *Calculation of adjustment.* (1) The inflation adjustments described in paragraph (c) of this section were determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty assessed or enforced by DHS by the cost-of-living adjustment as that term is defined by the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410. Any increase so determined was rounded to the nearest—

- (i) Multiples of \$10 in the case of penalties less than or equal to \$100;
- (ii) Multiples of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;
- (iii) Multiples of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;
- (iv) Multiples of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;
- (v) Multiples of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and
- (vi) Multiples of \$25,000 in the case of penalties greater than \$200,000.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the initial adjustment for each penalty is capped at 10%.

(c) *Adjustment to penalties.* The civil monetary penalties provided by law within the jurisdiction of DHS, as set forth in this paragraph (c)(1) through (14), are adjusted in accordance with the inflation adjustment procedures prescribed in section 5 of the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, effective for violations occurring on or after January 3, 2012 as follows:

(1) Section 231(g) of the Act, Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States: From \$1,000 to \$1,100.

(2) Section 234 of the Act, Penalties for non-compliance with landing re-

quirements at designated ports of entry for aircraft transporting aliens: From \$2,200 to \$3,200.

(3) Section 240B(d) of the Act, Penalties for failure to depart voluntarily: From \$1,000 minimum/\$5,000 maximum to \$1,100 minimum/\$5,500 maximum.

(4) Section 243(c)(1) of the Act, Penalties for violations of removal orders relating to aliens transported on vessels or aircraft, under section 241(d) of the Act, or for costs associated with removal under section 241(e) of the Act, from \$2,000 to \$2,200; and penalties for failure to remove alien stowaways under section 241(d)(2), from \$5,000 to \$5,500.

(5) Section 251(d) of the Act, Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest and lists in accordance with section 251 of the Act: From \$220 to \$320; and penalties for use of alien crewmen for longshore work in violation of section 251(d) of the Act: From \$5,500 to \$7,500.

(6) Section 254(a) of the Act, Penalties for failure to control alien crewmen: From \$550 minimum/\$3,300 maximum to \$750 minimum/\$4,300 maximum.

(7) Section 255 of the Act, Penalties for employment on passenger vessels of aliens afflicted with certain disabilities: Remains at \$1,100.

(8) Section 256 of the Act, Penalties for discharge of alien crewmen: From \$1,500 minimum/\$3,300 maximum to \$1,500 minimum/\$4,300 maximum.

(9) Section 257 of the Act, Penalties for bringing into the United States alien crewmen with intent to evade immigration laws: From \$11,000 maximum to \$16,000 maximum.

(10) Section 271(a) of the Act, Penalties for failure to prevent the unauthorized landing of aliens: From \$3,300 to \$4,300.

(11) Section 272(a) of the Act, Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground: From \$3,300 to \$4,300.

(12) Section 273(b) of the Act, Penalties for bringing to the United States aliens without required documentation: From \$3,300 to \$4,300.

Department of Homeland Security

§ 286.2

(13) Section 274D of the Act, Penalties for failure to depart: From \$500 to \$550, for each day the alien is in violation.

(14) Section 275(b) of the Act, Penalties for improper entry: From \$50 minimum/\$250 maximum to \$55 minimum/\$275 maximum, for each entry or attempted entry.

[76 FR 74629, Dec. 1, 2011]

PART 286—IMMIGRATION USER FEE

Sec.

286.1 Definitions.

286.2 Fee for arrival of passengers aboard commercial aircraft or commercial vessels.

286.3 Exceptions.

286.4 Fee collection responsibility.

286.5 Remittance and statement procedures.

286.6 Maintenance of records.

286.7 Penalties.

286.8 Establishment of pilot programs for the charging of a land border fee for inspection services.

286.9 Fee for processing applications and issuing documentation at land border Ports-of-Entry.

AUTHORITY: 8 U.S.C. 1101, 1103, 1356; Title VII of Public Law 110-229; 8 CFR part 2.

SOURCE: 53 FR 5757, Feb. 26, 1988, unless otherwise noted.

§ 286.1 Definitions.

The following definitions apply to the following terms in this part:

(a) The term *adjacent islands* means Anguilla, Antigua, Aruba, Bahamas, Barbados, Barbuda, Bermuda, Bonaire, British Virgin Islands, Cayman Islands, Cuba, Curacao, Dominica, the Dominican Republic, Grenada, Guadeloupe, Haiti, Jamaica, Marie-Galante, Martinique, Miquelon, Montserrat, Saba, Saint Barthélemy, Saint Christopher, Saint Eustatius, Saint Kitts-Nevis, Saint Lucia, Saint Maarten, Saint Martin, Saint Pierre, Saint Vincent and Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and other British, French and Netherlands territory or possessions bordering on the Caribbean Sea.

(b) The term *collector* means an air or sea carrier, travel agent, tour wholesaler, or other entity which collects, but may or may not be required to remit, fees pursuant to this part.

(c) The term *commercial aircraft* means any civilian aircraft being used to transport persons or property for compensation or hire.

(d) The term *commercial vessel* means any civilian vessel being used to transport persons or property for compensation or hire.

(e) The term *Assistant Commissioner, Office of Financial Management* means the Office of the Assistant Commissioner, Financial Management, Immigration and Naturalization Service, Room 6307, 425 I Street NW., Washington, DC 20536.

(f) The term *fee* means the immigration user fee.

(g) The term *port of entry* means a port or place designated by the Commissioner at which a person may apply for admission into the United States.

(h) The term *remitter* means an air or sea carrier, travel agent, tour wholesaler, or other entity which collects, including receipt of fees collected by collectors which are not required to remit fees, and remits fees pursuant to this part.

(i) *Territories or possessions of the United States* means American Samoa, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway, Swains Island, Palmyra Island, and Wake Island.

(j) The term *document for transportation* means any document accepted by a carrier in return for transportation.

(k) *United States*, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

[53 FR 5757, Feb. 26, 1988, as amended at 59 FR 49349, Sept. 28, 1994; 63 FR 51272, Sept. 25, 1998; 74 FR 55740, Oct. 28, 2009]

§ 286.2 Fee for arrival of passengers aboard commercial aircraft or commercial vessels.

(a) A fee, in the amount prescribed in section 286(d) of the Act, per individual is charged and collected by the Commissioner for the immigration inspection of each passenger aboard a commercial aircraft or commercial vessel, arriving at a port-of-entry in the United States, or for the preinspection of a passenger in a place outside the